



1977 POLICE OFFICERS' AND FIREFIGHTERS' PENSION AND DISABILITY FUND  
143 West Market Street  
Indianapolis, Indiana 46204



**1977 POLICE OFFICERS' AND FIREFIGHTERS'  
PENSION AND DISABILITY FUND**

# **Disability Benefits Member Handbook**

## INTRODUCTION

This handbook summarizes your rights and benefits as a member of the 1977 Police Officers' and Firefighters' Pension and Disability Fund ("1977 Fund").

## GENERAL INFORMATION

The 1977 Fund was established to pay pension, disability, and survivor benefits to eligible public safety officers and their survivors.

The Board of Trustees of the Public Employees' Retirement Fund ("PERF") administers the 1977 Fund. An advisory board, which includes among its members police officers, firefighters, and representatives of local government, is appointed by the Governor to advise the PERF Board of Trustees concerning administration of the 1977 Fund.

The Fund consists of member contributions, employer contributions, and earnings. These amounts are used to make benefit payments to Fund members and their survivors as specified by Indiana statutes.

### WHAT IS THE 1977 FUND?

The 1977 Fund was established to pay pension, disability, and survivor benefits to eligible public safety officers and their survivors.

This handbook explains the disability benefit provisions applicable to the members of the 1977 Police Officers' and Firefighters' Pension and Disability Fund (1977 Fund).

Every effort has been made to ensure that this handbook accurately describes the applicable 1977 Fund statutes; however, in the event that there is a conflict between this handbook and the statutes, benefits will be determined in accordance with the 1977 Fund statutes.



## 1977 Police Officers' and Firefighters' Pension and Disability Fund

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## DISABILITY BENEFIT PROVISIONS

Since January 1, 1990 there has been both an “old” and “new” disability plan in the 1977 Fund. Those members initially hired before January 1, 1990 are included in the old plan (“Pre-1990 Plan”) unless they elected to be covered by the new disability plan adopted in 1990. Those hired after December 31, 1989, and those hired on or before that date who elected coverage under the new plan

### Base Salary

Throughout this handbook, you will see references to the term “base salary.” All benefits within the 1977 Fund are calculated according to this amount. The base salary is defined by state law as the salary of a first class police officer or firefighter plus all longevity increases (if provided by the employer) for service of 20 years or less, as certified to the 1977 Fund by each department. Upon retirement, benefits are based on the base salary effective for your department in the year your service ends. This first-class salary varies from employer to employer and is certified annually to the 1977 Fund.

(the “1990 Plan”) are covered under the new disability plan.

### PRE-1990 DISABILITY PLAN

#### For those members hired prior to January 1, 1990

If you are in the Pre-1990 Disability Plan, the following process governs your application for disability benefits:

1. Your local police or fire department pension board will conduct a hearing to determine whether you have a covered impairment. A covered impairment is an impairment that permanently or temporarily makes you unable to perform your duties in the police or fire department, considering reasonable accommodations under the Americans with Disabilities Act. See the Application and Appeal sections of this handbook for more details on how to apply for disability benefits.
2. The 1977 Fund will review the local pension board’s finding. If the local pension board and the 1977 Fund determine that you have a covered impairment, you are entitled to receive a disability benefit equal to the benefit you would have received if you had retired at age 52. If you are a retired vested member and you apply for disability benefits before age 52, your benefit may be reduced by amounts that you are eligible to receive from insurance, another pension fund, Social Security, worker’s compensation, salary or wages from your 1977 Fund employer, and compensation for paid leave.

### STEPS TO QUALIFY FOR PRE-1990 DISABILITY PLAN BENEFITS

1. *Local department pension board conducts determination hearing for covered impairment.*
2. *1977 Fund reviews local pension board findings to determine eligibility.*
3. *If eligible, you receive disability equal to your full normal retirement benefit at age 52 for the duration of your disability.*

The time spent receiving disability benefits is considered active service until you have 20 years of service. During this period, you may be subject to an annual medical review. If you are found to be no longer disabled and suitable and available work is offered to you by your department, your disability benefit will cease regardless of whether you accept the offer of employment. Recovered members will not be treated as new applicants, and will not be subject to the application process for new members.

If you were to return to work after recovering from a covered impairment and you become disabled within two years of your return to active duty for the same condition for which you were previously paid disability benefits, you are eligible to receive benefits equal to the amount of the disability benefit you were receiving when you returned to work, plus any intervening cost of living adjustments.

### 1990 DISABILITY PLAN

For those members hired after December 31, 1989  
or those electing coverage under the 1990 Plan

If you are found to have a covered impairment, the 1990 Plan will pay monthly disability benefits based on the class of your impairment, degree of impairment, and current first class salary for your department in the year in which the local board makes the disability determination. If you are in the 1990 Plan, in order for you to qualify for disability benefits under the 1990 Plan, your local police or fire department pension board will conduct a hearing to determine whether you have a covered impairment.

A covered impairment is an impairment that permanently or temporarily makes you unable to perform

#### STEPS TO QUALIFY FOR 1990 DISABILITY PLAN BENEFITS

1. Local department pension board conducts determination hearing for covered impairment.
2. Local department pension board then determines the class of your impairment.
3. The 1977 Fund reviews local pension board finding to determine eligibility.
4. If eligible, you will receive disability benefits based on your class of impairment. Your class of impairment determines your base monthly benefit and the degree of your impairment determines your additional monthly benefit.

your duties in the police or fire department, considering reasonable accommodations under the Americans with Disabilities Act. Certain covered impairments are excluded from consideration if the impairment was a pre-existing "Class 3 excludable condition" at the time you were hired. You are not eligible for Class 3 benefits for impairments that relate to the excludable condition. See the "Excludable Medical Conditions" box on page 4.

If the local board determines that you have a covered impairment, the board will then determine the "class" of your impairment. The class of impairment determines your base monthly benefit. The degree of impairment determined by the PERF medical authority determines your additional monthly benefit.

## Base Monthly Disability Benefit

The following describes the three different classes of impairments and the amount of each base benefit for each class:

### Class 1 Impairment

A Class 1 impairment is the direct result of one or more of the following:

1. A personal injury that occurs while you are on duty;
2. A personal injury that occurs while you are off duty but while responding to an offense or a reported offense in the case of a police officer or an emergency or a reported emergency for which you are trained, in the case of a firefighter; or
3. An occupational disease (defined in IC 22-3-7-10 as a disease arising out of and in the course of the employment).

**Note:** A member with a health condition caused by an “exposure risk disease” set forth in statute (such as anthrax, smallpox, HIV, or tuberculosis), is in certain circumstances presumed by law to have a Class 1 impairment.

You will receive a monthly base benefit equal to 45% of the base salary, plus an additional amount based on your degree of impairment as determined by the PERF medical consultant.

### Class 2 Impairment

A Class 2 impairment is defined as a duty-related disease, which means a disease arising out of your employment. This disease can be determined if it is apparent to the rational mind, upon consideration of all the circumstances, that:

1. There is a connection between the conditions under which your duties are performed and the disease;
2. The disease can be seen to have followed as a natural incident of your duties as a result of the exposure occasioned by the nature of your duties; or
3. The disease can be traced to your employment as the proximate cause.

You are entitled to receive 22% of the base salary plus 0.5% of that salary for each year of service, up to a maximum of 30 years of service. In addition, you will be paid an amount based on your degree of impairment, as determined by the PERF medical consultant.

### Class 3 Impairment

A Class 3 impairment is a covered impairment that is not a Class 1 or Class 2 impairment. Benefit periods are limited for certain benefits payable under Class 3 disabilities. Please refer to the “Benefit Period” section on page 4.

You will receive a monthly benefit equal to the product of your years of service, not to exceed 30 years, multiplied by 1% of the base salary. In addition, you will be paid an amount based on your degree of impairment, as determined by the PERF medical consultant.

## Additional Monthly Benefit (Class 1, 2, and 3)

After the local board classifies your impairment, the 1977 Fund will review the classification and its medical authority will determine the degree of impairment. Depending upon the degree of impairment, you are entitled to receive an additional monthly amount that is no less than 10% and no greater than 45% of the base salary.

TYPE OF IMPAIRMENT	BENEFIT PERIOD	OCCURRENCE	BENEFIT FORMULA
Class 1	Until age 52	On duty; Professional Emergency while off duty; Occupational Disease	45% x Base Salary + additional monthly benefit based on degree of impairment
Class 2	Period equaling total years of service or until age 52	Proven duty-related disease	22% x Base Salary + 0.5% x years of service up to 30 + additional monthly benefit based on degree of impairment
Class 3	Period equaling total years of service or until age 52	All other not Class 1 or 2	1% x Base Salary x years of service up to 30 + additional monthly benefit based on degree of impairment

#### Excludable Medical Conditions Under A Class 3 Disability

If a member is hired with a pre-existing excludable medical condition, the member will not be eligible for a Class 3 disability benefit when the impairment relates to the excludable condition. This condition would also prevent the member from receiving any Class 3 disability benefit for a period of four years after the date of hire or rehire, unless the Class 3 impairment is attributed to an accidental injury.

#### Deferred Retirement Option Plan - DROP

If you elected to enter the Deferred Retirement Option Plan ("DROP") and you become disabled, entry into the DROP will not affect your disability benefits. If you become disabled while in the DROP and you are approved for disability benefits, your disability benefits will be calculated as if you had never entered the DROP. However, you will not be eligible to choose the DROP retirement option. The disability benefits will be calculated based on salary and service as if you had never entered the DROP.

## Benefit Period

Benefits for a Class 1 impairment are payable until you become 52, if you continue to be eligible for a benefit. Disability benefits for Class 2 and Class 3 impairments are payable:

- for a period equal to your years of service, if your total disability payment is less than 30% of the base salary amount when you become disabled and you have fewer than 4 years of service; or
- until you become 52, if: (a) the benefit is equal to or greater than 30% of the base salary; or (b) if the benefit is less than 30% of the monthly base salary and you have at least 4 years of service.

At age 52, members with Class 1 and 2 disabilities will receive a benefit equal to the greater of what a member would receive with 20 years of service, or with total years of service that you would have earned if you had continued working to age 52.

Upon reaching age 52, if you have a Class 3 disability you will receive what a member with 20 years of service would receive.

A complete application for disability benefits consists of the following:

## COMPLETING THE APPLICATION

1. A completed 1977 Fund application for disability benefits, signed by you and the Chief of your department.
2. The local board's determinations of impairment and local board meeting minutes.
3. The local board determination of class of impairment for 1977 Fund members hired after December 31, 1989 or who elected to convert to disability rules of the 1990 Plan.
4. An employer service certification form signed by the Clerk-Treasurer or Controller.
5. A copy of member's birth certificate (if not already submitted).
6. For Pre-1990 Plan Members, a copy of any duty-related disability determination.

## THE LOCAL BOARD PROCESS

1. Applicant requests hearing to determine existence of a covered impairment.
2. Applicant provides medical support to the hiring authority and the local board.
3. The hiring authority determines whether or not there is suitable and available work, considering reasonable accommodations under the American with Disabilities Act (ADA).
4. A hearing is held by the local board regarding whether or not the applicant is impaired within the definitions set forth in the statutes. The hearing shall be recorded.
5. Determination of class of impairment (Class 1,2, or 3) made by the local board for members hired after January 1, 1990. For Pre-1990 Plan members, the local board determines whether the disability is duty-related.
6. If the local board has determined a Class 3 impairment and the fund member had a class 3 excludable condition, the local board determines if the impairment is attributable to an accidental injury.
7. If the local board approves the disability or if the disability is denied and the applicant appeals the denial (according to the statutory requirements that are applicable to the appeal) the local board submits the determinations and a copy of all the medical documentation used in making that determination to the 1977 Fund.

## 1977 FUND ADMINISTRATIVE PROCESS

1. The application is reviewed for completeness. The 1977 Fund contacts the local board to request any additional information required for the application.
2. The application file is reviewed by the 1977 Fund medical authority.
3. The 1977 Fund medical authority issues an initial determination, which may include the following:
  - a. a request for additional medical records
  - b. a request for an independent medical evaluation (which will be paid for by the 1977 Fund).
4. When the medical authority has completed its determination the 1977 Fund issues a determination letter regarding eligibility for disability. The determination letter is sent to the local board, the disability benefit applicant and the employer unit.
5. If the disability is approved, the 1977 Fund contacts the local employer for final pay information. Disability benefit payments for 1977 Fund members (or for converted members, the local unit begins benefit payments) begin after the exhaustion of all wages and paid leave.
6. Disability decisions may be appealed by the member or employer under the Indiana Administrative Orders and Procedures Act.

## THE APPEALS PROCESS

Appeals of the 1977 Fund determination will be heard by the 1977 Fund Hearing Officer, in compliance with the Indiana Administrative Orders and Procedures Act.

Appeals may require the member to submit to a medical examination.

The hearing will allow for additional evidence to be presented by all parties. The hearing officer will submit findings and recommendation to the PERF board for a final determination.

All parties will be advised of the final determination.

## TAX CONSEQUENCES

### Pre-1990 Disability Statute – Job Related Injuries on or after July 1, 2000

If a member of the Pre-1990 Disability Plan suffers an injury on or after July 1, 2000 that is job-related, disability benefits are non-taxable pursuant to a private letter ruling issued by the IRS. Members who qualify must apply through their local board to the 1977 Fund Advisory Committee in order to receive a “job-related” ruling. However, see “At Age 55” for what happens at age 55.

### Pre-1990 Disability Statute – Injuries that are not Job Related

Disability benefits in the 1990 Plan that are not related to an injury suffered while on duty are fully taxable until age 55, when the disability benefit converts to a retirement benefit. At that point, members begin to recover their tax basis from the monthly retirement benefits. See ‘At Age 55’ below for more information.

### 1990 Disability Statute

**Class 1 And Class 2 Benefits** - The 1977 Fund received an IRS private letter ruling in 1999 that provides for the exclusion of these benefits from federal income taxes. However see “At Age 55” below for what happens at age 55.

**Class 3 Benefits** - Class 3 disability benefits are fully taxable until age 55, when the disability benefit converts to a retirement benefit. At that point, members begin to recover their tax basis from the monthly retirement benefits. See ‘At Age 55’ below for more information.

### At Age 55

In any event, at age 55 your disability benefit is considered a retirement benefit, and your retirement benefit is taxed depending on the amount of member contributions on which you have previously paid federal income tax. This tax basis (or “investment in the contract”) may be recovered beginning at age 55. A portion of your benefit is then excluded from federal income tax. See the special tax notice included with your disability benefit application for more information

### Tax Withholding

You may elect how much Federal and State tax you want withheld from your disability benefits. These forms are available from the 1977 Fund office.

These tax rules are complex, so if you need additional information, you should obtain IRS Publication 575; or, if you need further assistance, you should contact your local IRS office or tax consultant.

## 1977 FUND DISABILITY BENEFITS FREQUENTLY ASKED QUESTIONS

### **1. How do I apply for disability benefits?**

*Please contact the 1977 Fund for an application for disability benefits.*

### **2. What process governs my application for disability benefits?**

*The local pension board will hold a hearing regarding this matter. That board will issue findings as to whether or not you are impaired (and a class of disability determination for 1977 Fund members hired after December 31, 1989 or those members who converted to the provisions of the 1990 disability statutes). Your application, the medical information, and the findings of the local board are sent to the 1977 Fund to be reviewed by the PERF medical consultant. The 1977 Fund will issue a letter of determination regarding your impairment.*

### **3. How do I know if my benefit is determined under a class of impairment?**

*If you were hired for the first time after December 31, 1989 or elected to convert to the 1990 statutory provisions, then your benefit is determined by the class of impairment and degree of impairment.*

### **4. How is the amount payable determined?**

*The amount payable is based on the statutory provisions and the base salary at the time of disability retirement. For members of the 1990 statutory provisions, the amount payable is determined by the class of impairment and the degree of impairment. (Please refer to the preceding information in this handbook on the classes of impairment.) For 1977 Fund members not covered by the 1990 statutory provisions, the benefit for a Fund member with twenty years of service or less is 50% of the first class salary for the year in which their service ends. If the member's service exceeds twenty years, then the benefit is computed using that service in the same manner as a retirement benefit from the 1977 Fund.*

### **5. Who determines the degree of impairment?**

*The degree of impairment is determined by the PERF medical authority.*

**6. Will my surviving spouse be entitled to a benefit if I die after my disability benefits commence?**

*Yes. Your surviving spouse is entitled to 60% of your disability benefit and a death benefit of \$9,000.*

**7. Should I apply for disability while I am receiving pay or wait until my pay has ended?**

*You should not delay your disability application filing. You may apply for benefits while you are receiving pay.*

**8. Will I be required to have a medical examination?**

*The local board or the 1977 Fund may request a medical examination.*

**9. Am I ineligible for a benefit if there is a light duty position available?**

*You are not eligible for a disability benefit if there is a suitable light duty position available in your department.*

**10. Whom should I call if I have questions about the disability application process?**

*Please contact our office at the numbers included in this handbook.*

## COMMUNICATING WITH THE FUND



The 1977 Fund's mailing address is as follows:

1977 Police Officers' and Firefighters'  
Pension and Disability Fund  
143 West Market Street, Suite 400  
Indianapolis, Indiana 46204



When you write to the 1977 Fund, please furnish your full name, current address and signature. Office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday, except on State holidays.

The telephone numbers of the 1977 Fund staff are listed below:

Director.....(317) 233-4146  
Benefits Administrator .....(317) 233-4152  
FAX Number.....(317) 234-1529  
Toll Free Number.....1-888-526-1687



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## NOTES

